

Patent Application Serial No. 10/612,016
Docket No. 031889-004000
Patent

REMARKS

Claims 1-31 are pending, and new claims 32-33 are added.

Applicant has amended claim 1 by reciting "wherein the modified solution consists essentially of the hypochlorite salt and the alkali metal hydroxide." Applicant has also amended claim 14 by reciting "wherein the modified solution consists essentially of a hypochlorite salt and the alkali metal hydroxide." In addition, Applicant has amended claim 25 by replacing "comprises" with "consists essentially of" and deleting the phrase "an instruction for removing said stain from said soft fabric article employing said cleaning composition." Likewise, Applicant has amended claim 31 by replacing "includes" with "consists essentially of" and deleting the phrase "an instruction for removing said stain from said soft fabric article employing said kit." The amendments to claims 1, 14, 25, and 31 are supported by the entire specification, particularly at page 7, lines 23-28.

Furthermore, Applicant has added new claims 32-33. The addition of claims 32-33 is supported by the entire specification, particularly at page 7, lines 23-28.

Applicant respectfully submits that the above amendments and the addition of new claims do not introduce new matter. Accordingly, Applicant respectfully requests the Examiner to enter these amendments.

Rejections Under 35 U.S.C. § 102(b)

On Page 2, Section 2, the Office Action rejects claims 1-4, 7-11, and 14-28, under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 4,888,323 to Matsuda *et al.* (hereinafter "Matsuda"). Applicant respectfully traverses this rejection.

Matsuda generally describes a perfumed bleaching composition that contains a variety of ingredients, namely, sodium hypochlorite, sodium dodecyl ether sulfate, sodium 2-ethylhexyl sulfate, sodium hydroxide, and 2, 4-di-tert-butylcyclohexanone (column 7, lines 1-24). A key ingredient of Matsuda's perfume composition is 2, 4-di-tert-butylcyclohexanone, which imparts a mild soft, floral woody and violet-like scent, which in turn masks the irritating odor of the sodium hypochlorite bleaching composition.

Accordingly, Applicant respectfully submits that Matsuda, as well as the remaining cited references discussed hereinbelow, fail to teach or suggest a method of using a modified

Patent Application Serial No. 10/612,016
Docket No. 031889-004000
Patent

hypochlorite salt-containing solution to reduce the damaging effect of the solution on soft fabric articles, wherein the modified hypochlorite salt-containing solution consists essentially of a hypochlorite salt and an alkali metal hydroxide.

In addition, Applicant respectfully submits that claims 25-28 recite sufficient structural features, such as a clean composition consisting essentially of a hypochlorite salt and an alkali metal hydroxide. Therefore, claims 25-28 are not merely recitation for use. Accordingly, Applicant respectfully requests the Examiner to reconsider the rejection of claims 25-28.

Based on the above reasons, Applicant respectfully submits that Matsuda fails to teach or suggest claims 1-4, 7-11, and 14-28. Accordingly, Applicant earnestly requests the Examiner to reconsider and withdraw the above-mentioned § 102(b) rejection.

On Page 3, Section 3, the Office Action also rejects claims 1-4, 7-11, and 14-28, under 35 U.S.C. § 102(b); as being anticipated by U.S. Patent No. 4,929,383 to Haendler. (hereinafter "Haendler"). Applicant respectfully traverses this rejection.

Haendler generally describes a method and a liquid composition that utilize a mixture of ingredients, namely, a co-polymer (e.g., AC-580), sodium hydroxide, an optical brightener (e.g., Tinopal CBS-X), and sodium hypochlorite. The key ingredient(s) in Haendler's composition is either an optical brightener (e.g., blueing agents) and/or a fluorescent whitening agent that mask(s) the undesirable yellow colors of fabrics after laundering. See Abstract and column 8, lines 34-54.

Accordingly, Applicant respectfully submits that Haendler fails to teach or suggest removal of stains from soft fabric articles using a modified hypochlorite salt-containing solution consisting essentially of a hypochlorite salt and an alkali metal hydroxide. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the § 102(b) rejection of claims 1-4, 7-11, and 14-28 based on Haendler.

On Page 4, Section 4, the Office Action further rejects claims 1-11, 13-23, and 25-30, under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 3,929,661 to Nakagawa *et al.* (hereinafter "Nakagawa"). Applicant respectfully traverses this rejection.

Nakagawa generally describes a liquid detergent bleaching composition that contains a combination of ingredients, namely, sodium hypochlorite, sodium hydroxide, sodium chloride, and a surfactant having the formula I (see Nakagawa at column 2, lines 24-43). The

Patent Application Serial No. 10/612,016
Docket No. 031889-004000
Patent

object of adding the surfactant, an essential ingredient in Nakagawa's bleaching composition, is to improve the sterilizing and bleaching power of sodium hypochlorite.

Accordingly, Applicant respectfully submits that, like other references cited in the Office Action, Nakagawa neither teaches nor suggests removal of hard-to-remove stains from soft fabric articles using a modified hypochlorite salt-containing solution that consists essentially of a hypochlorite salt and an alkali metal hydroxide. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the § 102(b) rejection of claims 1-11, 13-23, and 25-30 based on Nakagawa.

On Page 4, Section 5, the Office Action rejects claims 1-3, 7-11, 13-23, and 25-27, under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,746,936 to Mercado *et al.* (hereinafter "Mercado"). Applicant respectfully traverses this rejection.

Mercado generally describes an aqueous liquid bleaching composition that has the following essential components, namely, alkali metal hypochlorite, alkali metal carbonate, alkali metal hydroxide, and alkali metal phosphate and optionally, a periodate or mixtures of periodates. According to Mercado, the addition of carbonate salts effectively stabilizes the hypochlorite bleaching composition and while the addition of phosphate salts improves fabric whiteness and/or inhibits the wearing out of the fabrics contacted with the bleaching compositions and at the same time, significantly reduces or eliminates metal impurities in the bleaching compositions. See Mercado at column 3, lines 16-22, lines 26-31 and lines 49-51.

Accordingly, similar to the deficiencies of other cited references, Mercado is also deficient and further fails to disclose or suggest removal of stains from soft fabric articles using a modified hypochlorite salt-containing solution that consists essentially of an alkali metal hydroxide and hypochlorite salt. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the § 102(b) rejection of claims 1-3, 7-11, 13-23, and 25-27 based on Mercado.

On Page 5, the Office Action rejects claims 1-5, 7-11 and 14-29, under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 6,120,555 to Scialla *et al.* (hereinafter "Scialla"). Applicant respectfully traverses this rejection.

Scialla generally describes a bleaching method which employs a variety of essential ingredients including an alkali metal hypochlorite and a pH buffering means (*i.e.*, alkaline metal salts of metaborate and stannate and mixtures thereof). Additionally, in an effort to

Patent Application Serial No. 10/612,016
Docket No. 031889-004000
Patent

improve fabric safety and/or fabric whiteness, the pH buffering means, according to Scialla's method, when used at 1 M solution at pH 10, requires more than 2.5 mM of the calcium ions to cause the precipitation of calcium salt. See column 4, lines 34-53.

Therefore, Applicant respectfully submits that Scialla also fails to teach or suggest removal of hard-to-remove stains from soft fabric articles using a modified hypochlorite salt-containing solution consisting essentially of a metallic salt of hypochlorous acid and an alkali metal hydroxide. Reconsideration and withdrawal of the § 102(b) rejection of claims 1-5, 7-11 and 14-29 based on Scialla are, therefore, respectfully requested.

On Page 5, the Office Action rejects claims 1-11, 14-23 and 25-30, under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 6,204,235 to Carillo *et al.* (hereinafter "Carillo"). Applicant respectfully traverses this rejection.

Carillo generally describes an active chlorine composition that contains an active chlorine and an optical brightener in microencapsulated form. The purpose of adding optical brighteners in chlorine composition is to counteract the yellowing of laundry. Other components can also be optionally supplemented into Carillo's composition. These components include electrolytes, thickeners, chlorine-stable surfactants, fragrances, dyes and pigments. See Abstract and column 1, lines 24-26, column 2, lines 42-44, column 3, lines 16-19, column 4, lines 57-58, column 5, lines 9-10, and column 9, lines 16-18.

Therefore, like other cited references, Carillo neither discloses nor suggests removal of hard-to-remove stains from soft fabric articles using a modified hypochlorite salt-containing solution consisting essentially of a metallic salt of hypochlorous acid and an alkali metal hydroxide. Reconsideration and withdrawal of the § 102(b) rejection of claims 1-11, 14-23 and 25-30 based on Carillo are, therefore, respectfully requested.

On Page 6, the Office Action rejects claims 1-3, 7-11, and 13-27, under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,843,190 to Agostini *et al.* (hereinafter "Agostini"). Applicant respectfully traverses this rejection.

Agostini generally describes a bleaching composition containing a variety of essential and requisite ingredients, namely, (i) an alkali metal hypochlorite, or mixtures thereof; (ii) an alkali metal salt of silicate, or mixtures thereof; (iii) a strong source of alkalinity; and (iv) an alkali metal salt of carbonate, or mixtures thereof.

Patent Application Serial No. 10/612,016

Docket No. 031889-004000

Patent

Accordingly, like other cited references, Agostini fails to teach or suggest removal of hard-to-remove stains from soft fabric articles using a modified hypochlorite salt-containing composition consisting essentially of a hypochlorous salt and an alkali metal hydroxide. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the § 102(b) rejection of claims 1-3, 7-11, and 13-27 based on Agostini.

Lastly, on Page 7, the Office Action rejects claims 1-5, 7-11 and 25-29, under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,731,276, to Argo *et al.* (hereinafter "Argo"). Applicant respectfully traverses this rejection.

Argo generally describes an abrasive-free cleaning composition in an aqueous solution that has a variety of ingredients, namely, a halogen bleach, a colloidal aluminum oxide thickener, at least one surfactant, an electrolyte/buffer and a source of divalent ionic calcium. See abstract and column 15, lines 50-67. Applicant respectfully submits that Argo neither teaches nor suggests removal of hard-to-remove stains from soft fabric articles using a modified hypochlorite salt-containing composition that consists essentially of a hypochlorite salt and an alkali metal hydroxide. Reconsideration and withdrawal of the § 102(b) rejection of claims 1-5, 7-11 and 25-29 based on Argo are, therefore, respectfully requested.

Rejections Under 35 U.S.C. § 103(a)

On Page 7, the Office Action rejects claims 12 and 31, as being obvious over the references cited in the Office Action. Applicant respectfully traverses the rejection.

As noted above, Applicant respectfully submits that all of the references cited in the Office Action, either individually or in combination, fail to teach or suggest the use of a modified hypochlorite salt-containing solution, as recited in claims 12 and 31, for the removal of stains, such as, but not limited to, menstrual fluid or underarm perspiration stains. Accordingly, Applicant respectfully submits that the Office Action has failed to establish a *prima facie* case of obviousness. See MPEP § 2143.03 ("To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art").

The Office Action states that "it is obvious to add a sodium hydroxide solution to another solution for the purpose of pH modification" as taught by the references cited in the Office Action. Without agreeing or disagreeing with the Examiner's contention, Applicant

Patent Application Serial No. 10/612,016

Docket No. 031889-004000

Patent

respectfully directs the Examiner's attention to pages 6-7 of the specification, which describes that the use of an alkali metal hydroxide, *e.g.*, sodium hydroxide, "add[s] significantly to the cleaning power of sodium hypochlorite to remove stains such as menstrual fluids or underarm perspiration stains, from clothes and other soft fabric articles while significantly increasing the compatibility of sodium hypochlorite with soft fabric, such as cotton fabric, thereby preventing sodium hypochlorite from damaging the fabric." See also Examples 1-3 of the specification. Applicant respectfully submits that all of the references cited in the Office Action fail to teach or suggest that the addition of an alkali metal hydroxide, such as sodium hydroxide, to a hypochlorite salt-containing composition can improve fabric safety as well as the bleaching power of the hypochlorite composition.

In addition, Applicant submits that the Office Action has failed to establish any motivation to combine any of the cited references. The Federal Circuit has repeatedly emphasized that evidence of a motivation to combine must accompany a challenge based on multiple references. See *In re Dembiczak*, 175 F.3d 994 (Fed. Cir. 1999) and *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534 (Fed. Cir. 1998). See also MPEP §2143.01 (The prior art must suggest the desirability of the claimed invention). A statement that combination of the prior art to meet the claimed invention would have been within the ordinary skill in the art is not alone sufficient to establish a *prima facie* case of obviousness. See MPEP §2143.01.

Based on the foregoing, Applicant respectfully submits that the Office Action has failed to establish a *prima facie* case of obviousness. Accordingly, Applicant earnestly requests the Examiner to reconsider and withdraw the rejection of claims 12 and 31 under 35 U.S.C. § 103(a).

Patent Application Serial No. 10/612,016

Docket No. 031889-004000

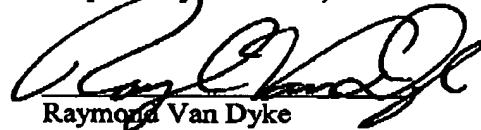
Patent

CONCLUSION

For at least the reasons set forth above, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance of the claims are earnestly requested. Although Applicant believes that no fee is due, the Commissioner is hereby authorized to charge any payment deficiency to Deposit Account No. 19-2380.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact the undersigned representative at the telephone number shown below.

Respectfully submitted,



Raymond Van Dyke
Reg. No. 34,746

Date: July 7, 2005

Nixon Peabody LLP
401 9th Street, N.W., Suite 900
Washington, D.C. 20004-2128
Tel: (202) 585-8250
Fax: (202) 585-8080